

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

Peter J. Helfrich,

Plaintiff

v.

State of Nevada, et al.,

Defendants

2:16-cv-00942-JAD-GWF

**Order Denying Motion to Proceed *in forma pauperis* and Motion to Enlarge
Prison Copy-work Limit**

[ECF Nos. 1, 2]

Pro se Nevada state-prison inmate Peter Jason Helfrich has submitted a civil-rights complaint,¹ an application to proceed *in forma pauperis*,² and a motion to enlarge his prison copy-work limit.³ Because Helfrich has on three prior occasions had actions (or appeals) filed while he was incarcerated dismissed, and he does not plausibly allege that he faces imminent danger of serious physical injury, I deny his IFP application and his motion to enlarge his prison copy-work limit. Helfrich has until October 23, 2016, to pay the \$400.00 filing fee or have this case dismissed.

Discussion

A. Helfrich's application to proceed *in forma pauperis* [ECF No. 1] is denied.

The Prison Litigation Reform Act seeks to prevent prisoners from abusing *in forma pauperis* status by prohibiting prisoners who have, on three or more occasions while detained, brought a court action or appeal that was dismissed as frivolous or malicious or for failure to state a claim from proceeding *in forma pauperis* unless the prisoner plausibly alleges that he is "under imminent danger of serious physical injury."⁴ A prisoner who is not granted IFP status must pay the full \$400 filing fee.

¹ ECF No. 1-1.

² ECF No. 1.

³ ECF No. 3.

⁴ 28 U.S.C. § 1915(g).

Helfrich has three strikes⁵ that prevent him from invoking IFP status unless he plausibly alleges that he is “under imminent danger of serious physical injury.” In his 60-page complaint, Helfrich—who is currently incarcerated at Nevada’s High Desert State Prison—asserts claims for events that allegedly took place at the Nye County Sheriff’s Office in Tonopah and Pahrump, Nevada, starting on June 24, 2014. These allegations do not plausibly allege that Helfrich is in imminent danger of serious physical injury because he is no longer in the custody of the employee-defendants of the Nye County Sheriff’s Office. Therefore, § 1915(g)’s three-strikes rule applies, and **Helfrich must pay the full \$400 filing fee by October 23, 2016, if he wishes to proceed with this action. If Helfrich fails to pay the filing fee by this deadline, this action will be dismissed without prejudice and without further notice.**

Conclusion

Accordingly, IT IS HEREBY ORDERED, ADJUDGED, and DECREED that **Helfrich’s application to proceed *in forma pauperis* [ECF No. 1] is DENIED. Helfrich must pay the full \$400 filing fee by October 23, 2016, or this action will be dismissed without prejudice.**

The Clerk of Court is instructed to send Helfrich two copies of this order and to retain the complaint [ECF No. 1-1] but not file it. Helfrich must attach a copy of this order to his check to pay the filing fee.

IT IS FURTHER ORDERED that **Helfrich’s motion to extend the prison copy-work limit [ECF No. 2] is DENIED without prejudice to its refiling once Helfrich has paid the filing fee.**

Dated this 23rd day of September, 2016



 Jennifer A. Dorsey
 United States District Judge

⁵ In *Helfrich v. Cox*, 2:15-cv-00384-JCM-PAL, the Ninth Circuit Court of Appeals dismissed Helfrich’s appeal as frivolous. ECF Nos. 15, 16. In *Helfrich v. Marshall*, 2:15-cv-00393-KJD-GWF, the Ninth Circuit Court of Appeals dismissed another one of Helfrich’s appeals as frivolous. ECF Nos. 59, 60. These dismissals constitute two strikes under 28 U.S.C. § 1915(g). See *Richey v. Dahne*, 807 F.3d 1202, 1208 (9th Cir. 2015). Finally, in *Helfrich v. State of Nevada*, 2:16-cv-00574-GMN-GWF, Helfrich received his third strike when Chief Judge Navarro dismissed Helfrich’s suit as malicious. ECF Nos. 3, 5. I take judicial notice of these decisions. FED. R. EVID. 201.